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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,090	09/19/2003	Julie L. Austin	01004.00011	1280

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/668,090	Applicant(s) AUSTIN ET AL.	
	Examiner Frank Vanaman	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/19/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Status of Application

1. Applicant's amendment, filed Aug. 1, 2005, has been entered in the application. Claims 1-20 are pending.

Drawings

2. The drawings remain objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the stroller portion being a pipe (claim 2), an armrest (claim 3), a leg (claim 4), or a handle (claim 5); and a means for securing the supporting member when fully condensed within the stroller portion (claim 20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. The drawings remain objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 140, (specification page 8, line 18, and plural locations on page 10), 105 (page 9, line 15, for example); 212 (page 11, line 2); 214 (page 11, line 2); 240 (page 11, line 3); 230 (page 11, line 5); 205 (page 11, line 13). This has been an exemplary listing only. It appears as though numerous reference numerals mentioned in the specification are not shown in the drawings as filed. Care should be taken to ensure that reference numerals mentioned in the specification match those in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

This issue was raised previously. In response to the previous office action, applicant has not taken corrective action in this matter.

Specification

4. The abstract of the disclosure remains objected to because the text “[t]he invention is” is redundant and should be deleted. Correction is required. See MPEP § 608.01(b).

5. The disclosure remains objected to because of the following informalities: on page 5, figure 4 is not mentioned in the Brief Description of the Drawings. On each of pages 6 and 7, as well as the first three lines of page 8, it is not clear what portion of applicants’ actual invention is being described. Throughout the specification, different terms have been used in association with the same drawing numerals—note page 11, line 4: “stroller pipe 220”, in comparison with page 11, line 6, “stroller portion 220”; or the same term has been associated with different reference numerals: compare page 11, line 6, “stroller portion 220” with page 11, line 15, “stroller portion 210”. This has been an exemplary listing. The entire specification should be carefully reviewed and revised for internal consistency, and for consistency with the drawings as filed. No new matter may be entered.

Appropriate correction is required.

These issues were raised previously. In response to the previous office action, applicant has not taken corrective action in this matter.

Claim Rejections - 35 USC § 112

6. Claim 20 remains rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 20 recites a securing means adapted to secure the supporting member when fully condensed within the stroller portion, however the specification as filed fails to teach how such a feature is made and/or used, and the drawings as filed fail to show such a feature.

This issue was raised previously. In response to the previous office action, applicant has not taken corrective action in this matter.

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7. Claims 12 and 13 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 12 and 13, it is not clear what particular attributes of a foam ("foam-like") are, or are not, being claimed.

This issue was raised previously. In response to the previous office action, applicant has not taken corrective action in this matter.

Claim Rejections - 35 USC § 102

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 1, 2, 3, 4, 5, 9, 10, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Frycek (US 5,244,225). Frycek teaches a system including a stroller leg portion (15, 16, 17, 18), a plurality of single supporting members (27, 30), a fastening means (19, 20) for connecting the supporting member, and a coupling means (21, 22) which extends in a direction transverse to the direction of motion of the stroller portion and which forms a joint for connecting the supporting member and fastening means, the stroller leg portions (15, 16) being pipes and having handle portions (17, 18), the leg portions including a forwardly protruding arm rest (11), the fastening means (19, 20) being integral with the leg portions, and forms a hinge (note circular motion available from 23, 24 at the disengagement of 21,22) and which may be positioned in a plurality of positions (note figure 4).

10. Claim 19 is rejected under 35 U.S.C. 102(e) as being anticipated by Kreamer (US 6,722,689, filed 1/16/02). Kreamer teaches a number of single flute shaped supporting members (48) comprising a top and a hollow bottom (58) having an arcuate cavity, and adapted to secure the supporting member to a stroller portion (28) when in either a stowed or a use state, and which may be oriented so as to include an axis transverse to a direction of stroller motion (see figure 2), fastening means (53) adapted to attach the supporting member to a stroller, and a coupling means (54, 56) adapted to couple the supporting member to the fastening means.

Claim Rejections - 35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 6, 7, 8, 11, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frycek (cited above). Frycek teaches a system including a stroller leg portion (15, 16, 17, 18), a supporting member (27, 30), a fastening means (connection between 19, 20, 17, 18, and 21, 22) for connecting the supporting member, and a coupling means (21, 22) which forms a joint for connecting the supporting member and fastening means, the stroller leg portions (15, 16) being pipes and having handle portions (17, 18), the leg portions being connected with an arm rest (11), the fastening means (19, 20) being integral with the leg portions, and forms a hinge (note circular motion available from 23, 24 at the disengagement of 21,22) and which may be positioned in a plurality of positions (note figure 4).

As regards claims 6 and 7, the reference to Frycek fails to specifically teach the supporting member as being a hollow pipe or rod, however these materials are well known in the frame construction arts, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to construct the support member from a rod for the purpose of providing a heavy-duty handle member, or from a tubular pipe for the purpose of providing a strong handle which is light-weight.

As regards claim 8, the reference to Frycek fails to teach the fastening means as being removably attached. It is very old and well known in the manufacturing arts to modify integral elements to be detachable in order to facilitate storage or transfer, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the fastening means removably attached to the stroller portion for the purpose in allowing a more compact configuration when the device is being stored.

As regards claim 11, the reference to Frycek fails to teach the fastening means as being a clip. The use of spring loaded clip and pin devices is very old and well known in the manufacturing arts, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a spring pin or spring clip to perform the

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task of the fastening means for the purpose of allowing fast connection and disconnection of the mating elements.

As regards claims 16-18, the reference to Frycek fails to teach a specific length and diameter to the supporting member and a specific height when attached. To adjust the length and diameter of an already-taught handle or gripping element, and its location based on an envisioned use is not deemed to be beyond the skill of the ordinary practitioner, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the diameter and length of the support to be between 0.5 and 2 inches, and between 11 and 24 inches respectively to accommodate a particular user, similarly, in view of Frycek's figure 4, it is not deemed to be beyond the skill of the ordinary practitioner to adjust the height of the support member to be between 11 and 24 inches from the ground, for example to allow a user to maneuver the stroller on an incline or decline.

13. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frycek in view of O'Shea et al. (US 6,325,406). The reference to Frycek is discussed above and fails to teach the support member as being covered with a 'foam-like' polymer. O'Shea et al. teach a hand support member (36) which is covered with a foam material, which is adapted to be useful as a grip for any number of users. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the foam material taught to be usable by O'Shea et al. on the support member taught by Frycek for the purpose of enhancing the gripping characteristics of the support member. As regards the use of a polymer it is very old and well known to use polymeric foams, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a polymer to ensure that the gripping element does not degrade in damp weather conditions.

Intended Use

14. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a

process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Claims not Rejected over the Prior Art

15. Claim 20 is not rejected as being unpatentable over or anticipated by the prior art of record, however this claim is not in condition for allowance in view of the rejection under 35 USC §112, first paragraph, as containing subject matter which has not been disclosed to the degree needed to make such a feature.

Response to comments

16. Applicant's comments concerning the drawings are noted, however the examiner notes that applicant has not filed corrected drawings, nor has applicant made any attempt to reconcile the inconsistencies between the drawings and specification. As regards applicants comment that the drawings must be furnished "where necessary...", applicant is reminded that any element deemed to be of such importance to be set forth in the claims should be illustrated.

Applicant's comments concerning the rejections made under 35 USC §102 and 103 are noted, however the references show a number of single support members as applicant has claimed them. Applicant's comment concerning the support members extending away from a stroller are noted, however it appears as though applicant is referring to a limitation not actually claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As regards reading unclaimed limitations from the specification into the claims

From MPEP 2111:

During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969)

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The court explained that "reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from 'reading limitations of the specification into a claim,' to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim." The court found that applicant was advocating the latter, i.e., the impermissible importation of subject matter from the specification into the claim.). See also *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

Applicant's comment directed to the preparation of claims under MPEP 707.07(j) is noted, but is entirely unclear, inasmuch as such a preparation is dedicated to pro-se applicants. Applicant is specifically invited to explain why such a request has been made.

Applicant's comments concerning the rejection under 35 USC §112 are noted. The rejection was written using common English, and states the grounds clearly. Perhaps applicant is not familiar with the first paragraph of 35 USC §112 - To obtain a valid patent, a patent application must be filed that contains a full and clear disclosure of the invention in the manner prescribed by 35 U.S.C. 112, first paragraph. The requirement for an adequate disclosure ensures that the public receives something in return for the exclusionary rights that are granted to the inventor by a patent. The grant of a patent helps to foster and enhance the development and disclosure of new ideas and the advancement of scientific knowledge. Upon the grant of a patent in the U.S., information contained in the patent becomes a part of the information available to the public for further research and development, subject only to the patentee's right to exclude others during the life of the patent.

In exchange for the patent rights granted, 35 U.S.C. 112, first paragraph, sets forth the minimum requirements for the quality and quantity of information that must be contained in the patent to justify the grant. The patentee must disclose in the patent sufficient information to put the public in possession of the invention and to enable those skilled in the art to make and use the invention. The applicant must not conceal from the public the best way of practicing the invention that was known to the patentee at the time of filing the patent application. Failure to fully comply with the disclosure

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requirements could result in the denial of a patent, or in a holding of invalidity of an issued patent.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618



10/11/05